

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

TOMIKA GARDNER, et al.,

Plaintiffs,

v.

SAN FRANCISCO PUBLIC LIBRARY, et  
al.,

Defendants.

Case No. [19-cv-08194-SI](#)

**ORDER ADOPTING REPORT AND  
RECOMMENDATION AND  
DISMISSING WITHOUT PREJUDICE**

Re: Dkt. No. 12

On December 16, 2019, pro se Plaintiff Tomika Gardner filed a complaint and application to proceed in forma pauperis. Dkt. Nos. 1, 2. Magistrate Judge Sallie Kim granted the application to proceed in forma pauperis but ordered a hold on service of the complaint because, upon reviewing the complaint, she found the court lacked jurisdiction over the matter. Dkt. No. 4. Pursuant to 28 U.S.C. § 1915, Magistrate Judge Kim permitted plaintiff to file an amended complaint by February 10, 2020, addressing the deficiencies described in her screening order. *Id.*

On January 24, 2020, the copy of Magistrate Judge Kim's screening order that was sent to plaintiff was returned as undeliverable. Dkt. No. 5. On March 3, 2020, a second copy of Magistrate Judge Kim's screening order, as well as a notice regarding consent to magistrate judge jurisdiction, were returned as undeliverable. Dkt. Nos. 8, 9. Magistrate Judge Kim vacated the initial case management conference on March 5, 2020 (Dkt. No. 7), and copies of notice of that action were returned undeliverable on March 12, 2020, and April 13, 2020, respectively (Dkt. Nos. 10, 11).

On April 16, 2020, Magistrate Judge Kim issued a report and recommendation reassigning the action to the instant Court and advising the action be dismissed without prejudice for failure to

1 comply with Civil Local Rule 3-11. Pursuant to Civil Local Rule 3-11, “a party proceeding pro se  
2 whose address changes while an action is pending must promptly file with the Court and serve upon  
3 all opposing parties a Notice of Change of Address specifying the new address.” Pursuant to the  
4 same rule, the Court “may, without prejudice, dismiss a complaint or strike an answer when: (1)  
5 Mail directed to the [...] pro se party by the Court has been returned to the Court as not deliverable;  
6 and (2) The Court fails to receive within 60 days of this return a written communication from the  
7 [...] pro se party indicating a current address.” Magistrate Judge Kim’s April 16, 2020 order also  
8 gave plaintiff until April 30, 2020 to file any objections thereto.

9 The screening order mailed to Plaintiff was first returned as undeliverable on January 24,  
10 2020. As of March 24, 2020, sixty days later, the Court had not, and still has not, received any  
11 communication from Plaintiff indicating a current address. Further, no objections were received by  
12 the Court on or before April 30.

13 Accordingly, the Court ADOPTS the report and recommendation and DISMISSES the  
14 action WITHOUT PREJUDICE.

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16 **IT IS SO ORDERED.**

17 Dated: May 4, 2020



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SUSAN ILLSTON  
United States District Judge